

(2) The original and 10 copies of the petition to reconsider a grant of interim approval shall be filed with the Board, and one copy of the petition shall be served on applicants' representative(s).

(f) The Board may act on a petition to reconsider a grant of interim approval either separately or in connection with the final decision on the application.

#### **§ 1182.8 Miscellaneous requirements.**

(a) If applicants wish to withdraw an application, they shall jointly request dismissal in writing.

(b) An original and 10 copies of all applications, pleadings, and other material filed under this part must be filed with the Board.

(c) All pleadings (including motions and replies) submitted under this part shall be served on all other parties, concurrently and by the same (or more expeditious) means with which they are filed with the Board.

(d) Each pleading shall contain a certificate of service stating that the pleading has been served in accordance with paragraph (c) of this section.

(e) All applications and pleadings containing statements of fact (i.e., except motions to strike, replies thereto, and other pleadings that consist only of legal argument) must be verified by the person offering the statement, in the following manner:

I, [Name and Title of Witness], verify under penalty of perjury, under the laws of the United States of America, that all information supplied in connection with this application is true and correct. Further, I certify that I am qualified and authorized to file this application or pleading. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

[Signature and Date]

(f) If completion of a transaction requires the transfer of operating authorities or registrations from one or more parties to others, the parties shall comply with relevant procedures of the Office of Motor Carriers of the

U.S. Department of Transportation, and comply with ministerial requirements of relevant State procedures.

### **PART 1184—MOTOR CARRIER POOLING OPERATIONS**

Sec.

1184.1 Scope and purpose.

1184.2 Contents of a pooling application.

1184.3 Processing pooling applications.

AUTHORITY: 49 U.S.C. 721, 14302.

SOURCE: 46 FR 21181, Apr. 9, 1981, unless otherwise noted. Redesignated at 47 FR 49595, Nov. 1, 1982.

#### **§ 1184.1 Scope and purpose.**

This statement of policy on motor carrier pooling applications implements section 20 of the Motor Carrier Act of 1980 [Pub. L. No. 96-296, 94 Stat. 793]. The Act's provisions are now contained at 49 U.S.C. 11342(b).

#### **§ 1184.2 Contents of a pooling application.**

A pooling application filed under 49 U.S.C. 11342(b) should include the following information:

(a) An identification of all the carriers who are parties to the pooling agreement;

(b) A general description of the transaction;

(c) A specific description of the operating authorities sought to be pooled;

(d) The basis to establish that the agreement is a genuine pooling arrangement (as opposed to a lease or interline arrangement);

(e) A description of what applicants consider to be the relevant transportation markets affected by the proposed agreement;

(f) The competitive routing and service alternatives that would remain if the agreement is approved, to the best of applicant's knowledge;

(g) If there is a lessening of such alternatives, an estimate of the public benefits that will accrue from approval, or new competition that will arise, which would offset such lessening;

(h) A narrative assessment of how the pooling arrangement will affect present and future competition in the area, including a description of the projected volume of traffic, the revenues,

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and the commodities which will be subject to the pooling agreement;

(i) Certification that rates set for traffic moving under the agreement do not violate the restrictions on collective ratemaking contained in 49 U.S.C. Subtitle IV and Board regulations;

(j) A narrative statement as to the relative transportation importance of the pooling agreement as it would affect the public and the national transportation system;

(k) If any known non-pooling carriers authorized to transport the subject traffic are not included in the pooling arrangement explain why, and explain whether inclusion would enhance or restrain competition;

(l) A statement of the energy and environmental effects of the agreement, if any; and

(m) Certification by applicant, or its representatives, that the representations made in the application are, to the best of applicant's knowledge and belief, true and complete.

As appendices, applicants must submit: (1) A copy of the pooling agreement; (2) a copy of the specific operating authority of each carrier which is the subject of the pooling agreement; and (3) a caption summary (for FEDERAL REGISTER publication) of the pooling transaction sought to be approved.

[46 FR 21181, Apr. 9, 1981. Redesignated and amended at 47 FR 49595, Nov. 1, 1982]

### § 1184.3 Processing pooling applications.

After the pooling application is received (not less than 50 days before the effective date specified in the pooling agreement), the Board will either reject it or determine initially whether the pooling agreement is of major transportation importance and whether there is a substantial likelihood that the pooling agreement will unduly restrain competition. If neither of these two factors is present, the application will be granted without further hearing. Where either factor is found to exist, the application will be published in the FEDERAL REGISTER using the caption summary filed with the application, and a hearing will be scheduled (normally to receive written verified statements) to consider the issues further. In this second phase of the pro-

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ceeding, the Board will consider whether the pooling agreement would be in the interest of better service to the public or of economy of operation and whether it will unduly restrain competition.

## PART 1185—INTERLOCKING OFFICERS

Sec.

1185.1 Definitions and scope of regulations.

1185.2 Contents of application.

1185.3 Procedures.

1185.4 General authority.

1185.5 Common control.

1185.6 Jointly used terminal properties.

AUTHORITY: 5 U.S.C. 553 and 559 and 49 U.S.C. 721, 10502, and 11328.

SOURCE: 62 FR 2042, Jan. 15, 1997, unless otherwise noted.

### § 1185.1 Definitions and scope of regulations.

(a) This part addresses the requirement of 49 U.S.C. 11328 authorization of the Surface Transportation Board (STB) needed for a person to hold the position of officer or director of more than one rail carrier, except where only Class III carriers are involved. STB authorization is not needed for individuals seeking to hold the positions of officers or directors only of Class III railroads. 49 U.S.C. 11328(b).

(b) When a person is an officer of a Class I railroad and seeks to become an officer of another Class I railroad, an application under 49 U.S.C. 11328(a) (or petition for individual exemption under 49 U.S.C. 10502) must be filed. All other "interlocking directorates" have been exempted as a class from the prior approval requirements of 49 U.S.C. 11328(a), pursuant to 49 U.S.C. 10502 and former 49 U.S.C. 10505. For such interlocking directorates exempted as a class, no filing with the STB is necessary to invoke the exemption.

(c) An *interlocking directorate* exists whenever an individual holds the position of officer or director of one rail carrier and assumes the position of officer or director of another rail carrier. This provision applies to any person